Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of	)	
Distribution of the 2000, 2001, 2002, and 2003 Cable Royalty Funds	)	**Docket No. 2008-2 CRB CD 2000-2003**

Testimony of

Linda McLaughlin

January 30, 2009

I. Qualifications and Summary

I am an economist and a Senior Vice President of National Economic Research Associates, Inc. I have conducted research on entertainment and media industries for over 30 years. I have analyzed marketplace prices paid for copyright licenses, reasonable rates for such licenses, and the distribution of fees collected to individual rights owners in a variety of media, including cable networks, broadcast stations, television programs, motion pictures, books, music compositions and recorded songs. I have submitted reports to and testified before the Copyright Arbitration Royalty Panel (CARP) and Copyright Royalty Judges concerning the compulsory license fee for satellite-retransmitted broadcast stations, the distribution of satellite royalty funds, and the costs and revenues of the record labels affiliated with the major U.S. record companies. In addition, I have submitted reports to the Federal Communications Commission and the Federal Trade Commission, and have testified before state and Federal courts and arbitrators concerning entertainment market issues. A detailed statement of my qualifications is attached as Exhibit 1.

I understand that Canadian Claimants assert that the relative value of the distant Canadian stations imported by cable operators in 2000-03 is no less than the portion of fees generated by the importation of the Canadian signals during that period. In this context, counsel for the National Association of Broadcasters and the Public Broadcasting Service asked me to address two issues: how marketplace values for cable-retransmitted broadcast programming are determined and whether fees generated for retransmitting particular stations reflect relative marketplace values.

In summary, I conclude:

- Cable retransmission is a secondary market. Relative marketplace values in such markets are based on relative programming demand.
- Fees generated reflect the payment framework of the compulsory license and attribution methods, not the relative demand for the programming on the retransmitted stations.

II. Marketplace Prices and Quantities

According to previous CARP proceedings and related court decisions, the standard for determining the distribution of the royalties for cable-retransmitted distant signals among the claimant groups that supply the compensable programming is relative marketplace value. The hypothetical marketplace negotiation over such programming would occur between cable operators and broadcasters (as intermediaries for copyright owners) for the rights to retransmit entire broadcast signals.[1] Such a framework is appropriate to determine marketplace value because it reflects the nature of the decisions actually being made. Cable operators decide whether to retransmit an entire broadcast signal or instead offer a cable network or devote the bandwidth to an alternate use. If they do retransmit a distant signal, they choose which one.

Cable retransmission of distant signals is a secondary market. Supply and demand set prices and quantities in primary market negotiations, but only demand is relevant in secondary market negotiations. Secondary markets are common for entertainment content. Once the program, music or other content is created for a primary market, it can be resold in a secondary market. Previously created content is available for licensing in secondary markets, e.g., old TV programs are available to cable networks and old songs are available for TV commercials, as long as the price is greater than the transaction costs.[2] Transaction costs may limit the availability of rights licensing, but they do not affect the price of the licensing agreements that are concluded.[3] Neither does the original cost of production affect those prices. The price is determined by demand.

---

[1] CARP Report, Cable Royalties for the Years 1990-92, May 31, 1996, pp. 22-24; Report of the CARP to the Librarian of Congress, In the Matter of the Distribution of 1998 and 1999 Cable Royalty Funds, Docket No. 2001-8 CARP CD 98-99, October 21, 2003, pp. 9-11.

[2] This does not mean that any revenue from the secondary market has no effect on the supply of programming. Expected revenues from the secondary market can be used to fund programming. Where secondary revenues become large relative to primary market revenues (e.g., motion pictures), expected secondary revenues can also influence the type of programming, that is, programming likely to generate more total revenues from the primary and secondary markets combined. That is not the case with respect to cable retransmission royalties, which are small relative to other program rights revenues.

[3] Where the seller bears the distribution cost—unlike the case of retransmitted programming—the additional cost of distribution is a relevant supply-side consideration. For example, the cost of clearing DVD rights, manufacturing a DVD, and getting it placed in stores relative to the expected DVD demand explains why some old movies are not available on DVD.

The hypothetical negotiations, then, to determine relative marketplace value are focused on the demand by the cable operators for the compensable programming in the distant signals they choose to import. Demand for distant signals depends on the prices and quality of the available substitutes—the local stations and cable networks, the additional cost (if any) of bringing the distant station to the cable system headend, and the income and taste of the cable system subscribers and potential subscribers. Among other factors, differing distant signal characteristics, local station availability and subscriber taste suggest that there will not be a single marketplace value (whether in total, per subscriber, or as a percentage of subscriber fees) for each signal imported by each cable operator. Even the same system will have a different marketplace value for different signals. For example, a system may retransmit one partially distant signal only for the purpose of carrying the same broadcast stations and other channels throughout its system, in order to save on marketing and technical cost, and retransmit another distant station to bring workplace news to those who commute to a nearby (but distant by signal designation) city. The system is likely to value the commuter-desired signal more than the system-cost-saving signal.

III. Demand for Imported Distant Signals Versus Compulsory License Payments

The fees generated by cable retransmissions of distant broadcast signals depend on the payment rules, not the relative marketplace value of the retransmitted signals. The payment rules are arbitrary; they were established by legislative compromise, not relative marketplace value.[4] As a result, relative fees generated would not be expected to reflect relative marketplace value.

Even if each distant signal carried by a cable system were valued, in absolute terms, at more than was paid for it, the relative marketplace value of a particular signal applied to the

[4] See, e.g., Copyright Royalty Tribunal, Adjustment of the Royalty Rate for Cable Systems, Docket No. CRT 81-2, November 19, 1982, 47 FR 52146 at -47, citing Jack Valenti's testimony that "the royalty fee schedule [since adjusted for inflation] was not based on any supporting data or economic analysis, but was the product of political compromises and of Congress's perception of the economic needs of the then [1976] infant cable industry,' and at -54 the Tribunal's conclusion that "the current statutory rates [since adjusted for inflation] could not be considered those that would result from full marketplace conditions if the compulsory license did not exist. The rates were established as a legislative compromise, they are arbitrary, and they were intended to require only a minimum payment on the part of cable operators [footnote omitted]."

royalties collected could well be lower than the fees it generated. Suppose there are only two types of signals: higher value and lower value, with relative marketplace values at 75 and 25, respectively, but both types generate the same fees: 20 for each group. While both have marketplace values in excess of fees generated, the excess is large for one group and small for the other. If the 40 collected for the two groups were distributed according to relative marketplace value, the higher value signals would receive 30 and the other group 10. Based on relative marketplace value, the higher value group receives more than was paid for it, while the lower value group receives less than was paid for it.

An examination of the demand conditions and the payment rules shows not only that there is no relationship between the payment rules and the absolute or relative demand for different types of signals but also that, in particular circumstances, the payment rules produce higher fees for signals of lower value. Further, fees attributed to a signal are largely fees allocated to the signal, not fees generated by the signal.

The compulsory license requires payments of particular royalty percentages of the cable operators' receipts for the tier or tiers that include the distant signals. In general, the receipts are the monthly rate for that tier multiplied by the number of subscribers, and multiplied by six months to reflect the semiannual payment period:

Specified Royalty % x Tier Rate x Tier Subscribers x 6

For large cable systems, called Form 3 systems, which account for the vast majority of the subscribers and royalties paid,[5] the royalty percentages vary based on the number and type of imported signals.[6] Four aspects of the payment rules are particularly relevant:

- Depending on the characteristics of the cable operator and the retransmitted station, some stations were permitted to be retransmitted by certain cable operators under rules prevailing prior to mid-1981, while others were not. Since 1981, both categories can be retransmitted under the compulsory license but at different royalty percentages. A basic fee under one percent is charged for the formerly permitted

[5] Form 3 systems accounted for 92 percent of the subscribers and 97 percent of the royalties paid in 2000-03 (Cable Data Corporation [CDC]). Data and discussion of the royalty payment system throughout this section of my report concern Form 3 systems.

[6] I understand that the calculation of royalties is described in detail in the Direct Testimony of Marsha Kessler, also submitted in this proceeding.

signals, while a 3.75 fee, equal to 3.75 percent, is charged for the formerly nonpermitted signals.[7]

- The basic and 3.75 signal royalty percentages apply to one full signal, called a Distant Signal Equivalent or DSE. Affiliates of the three major U.S. networks and educational stations are set at 0.25 of a DSE, while independents (including affiliates of Fox and minor networks and Canadian stations) are valued at one DSE.

- Within the basic fee, the first DSE is charged at 0.956 percent of receipts, the second through fourth at 0.630 percent, and the fifth or more at 0.296 percent.[8]

- A minimum fee equal to a basic fee for one DSE is required even if no signal or only a fractional DSE is imported.

First, whatever the royalty percentage, its application to gross receipts derived from tiers that include a variety of services, and not to receipts solely for the distant signals themselves, suggests that fees generated from distant signals will not be proportional to the marketplace value of the distant signals. The tier containing the distant signals is generally the basic service tier, which must be taken by all subscribers. The content of this tier varies widely among cable systems; it includes all local broadcast stations and public, educational and governmental channels, but also may include various distant retransmitted stations and cable networks.[9] The vast majority of subscribers do not specifically choose to purchase this tier but rather purchase a bundle of two tiers, basic service and expanded basic (sometimes called cable programming services), for a combined package price.[10] As a result, the price of the basic tier itself does not necessarily reflect the value of the services in the basic tier. Even if it did, the tier price would likely vary depending on the size and quality of the basic tier. That is, higher-priced basic tiers with distant signals likely include more channels and possibly more popular cable networks (for

---

[7] There is a small third category, which generates a syndex fee and also arises from changes to the pre-1981 rules.

[8] For the five years ending June 2000, these percentages were slightly smaller: 0.893 percent for the first DSE, 0.563 percent for the second through fourth, and 0.265 percent for the fifth or more. Library of Congress, Copyright Office, Adjustment of Cable Statutory License Royalty Rates, Docket 2000-04, October 20, 2000.

[9] See, e.g., Federal Communications Commission, In the Matter of the Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Tenth Annual Report, MB Docket No. 03-172, January 28, 2004, ¶20, fn 25.

[10] In 2002, for example, approximately 90 percent of subscribers purchased the two packages combined. For systems surveyed in July 2002, the average basic service rate was $14.45 and the total for both packages, including equipment, was $40.11 for a total of 63 channels. Federal Communications Commission, In the Matter of Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Report on Cable Industry Prices, MM Docket No. 92-266, July 8, 2003, ¶3 and ¶25, Table 1.

example, Discovery and CNN) that in other systems are carried in the expanded basic tier. Because of the compulsory license payment formula, a system with a higher rate for the basic tier generates more fees per subscriber for the first basic DSE than a system with a lower basic tier rate. The larger fees generated likely reflect the other attributes of the combined package, and the somewhat artificial division of the combined package into two parts, rather than a higher marketplace value for the distant signal.

Second, the 3.75 fee generates higher fees for less desirable distant signals. The difference between a basic signal and a 3.75 signal can be simply the number of such signals. For example, a cable system in a smaller market can import one distant independent station as a basic signal (at 0.956), but the second distant independent station is a 3.75 signal (at 3.75 percent). Economic theory tells us that the first independent is worth the most and the second somewhat less. In this case, relative fees attributed to the signals (the second independent is assigned the higher fees) are not in line with relative demand for the signals (the first independent has the highest value). The difference is not minor: fees attributed to the second independent are almost four times larger than fees attributed to the first independent.[11]

Third, the basic fee has a declining scale, as economic theory dictates, but only between the first, second and fifth DSE (i.e., no decline from second to third to fourth). Further, the magnitude of the decline is arbitrary: the second signal should not necessarily be valued at about two-thirds of the first.[12]

Fourth, different DSE counts are applied to different types of stations without regard to the existence of noncompensable or duplicative programming. A 0.25 DSE count is assigned to distant network affiliates, which broadcast some amount of noncompensable network

---

[11] Systems in larger markets can generally import two or three distant independent stations under the basic fee, with any additional distant independent stations falling into the 3.75 category. See Library of Congress, Copyright Office, Section 109 Report to Congress, Notice of Inquiry, Docket No. 2007-1, April 10, 2007, p. 5, and Television Digest, 1982 Cable and Station Coverage Atlas, pp. 58a-59a, Federal Communications Commission Rules, §76.61 and §76.63. In this case, an additional distant independent station would generate fees almost four times the first one (3.75 is 3.9 times 0.956) and almost six times the second one (3.75 is 5.95 times 0.63).

[12] A minor example of this arbitrariness is illustrated by the increase in the relative royalty percentages for the first and second DSE when the rates were adjusted for inflation in July 2000. Just before this adjustment, the second signal fee equaled 63 percent of the first (0.563/0.893); after the adjustment the second signal fee equaled 66 percent of the first (0.630/0.956).

programming, while other stations also broadcast noncompensable network programming but are not assigned a fractional DSE count. For example, some distant Canadian stations also contain substantial amounts of noncompensable U.S. network programming (prime time and daytime programs from ABC, CBS and NBC),[13] yet these Canadian stations are counted as a full signal. A 0.25 DSE count is also applied to distant educational stations. Both network affiliates and educational distant stations broadcast some amount of programming duplicative of that broadcast by local stations, and even the same program retransmitted at the same time (e.g., where the distant station is affiliated with the same network as a local station in the same time zone).[14] Other distant stations, however, may also have substantial duplicative programming: (a) programming broadcast on Fox or minor networks, (b) syndicated programming (e.g., Oprah) and/or (c) programming broadcast by the three major U.S. networks. Some distant Canadian stations have substantial duplicative programming in all three categories.[15]

An economic principle is that the purchaser will not pay more than the value of a product. In the context of distant signals, the value of the signal to a cable operator must equal or exceed the extra cost of carrying it. Thus, hypothetically, fees generated by a particular imported station could reveal the minimum marketplace value of that station to the cable operator; however, the economic principle does not provide much guidance in attempting to determine the marketplace value of retransmitted signals. All systems must pay a minimum fee covering one DSE whether they import no signals, only a fractional DSE or one DSE. The minimum fee is not a technicality: Form 3 systems covering about one-quarter of subscribers import no distant signals and pay the minimum fee. Two-thirds of the subscribers in systems that do import some signals receive at most one DSE.[16] Thus, for most of the systems (as counted by subscribers to reflect their size) the decision to import a fractional or full DSE does not even indicate that the value of

---

[13] See http://web.archive.org/web/20030425085821/http:/www.ctv.ca/generic/generated/tvlist/CFTOtvlist.html for an April 2003 schedule of CFTO-TV, a CTV station and *Broadcasting & Cable*, April 28, 2003, p. 16 and May 5, 2003, p. 12 for comparable schedules in prime time for ABC, CBS, NBC, Fox, WB, UPN and Pax. CFTO's schedule also includes prime time programming from Fox and Pax, and syndicated programming in other dayparts.

[14] Neither the noncompensable nor the partially duplicative programming explains the particular (75 percent) reduction chosen.

[15] See footnote 13 above.

[16] CDC. Stated differently, about 25 percent of all Form 3 subscribers receive no DSEs, 50 percent receive some DSEs but no more than one, and the remaining 25 percent receive more than one.

the retransmitted signal is at least as large as the fees generated by those signals. In fact, the fees are not actually generated by the retransmitted signals; rather, they are generated by the minimum fee requirement and allocated to that signal by CDC.

Even in systems retransmitting more than one DSE, and so incurring extra cost to do so, the economic principle that the extra cost of the signal must cover its value reveals little. For example, a system that carries two basic DSEs and pays extra as a result (an extra 0.63 percent of receipts) reveals only that each DSE is worth at least the extra cost of the second signal (the 0.63 percent). CDC averages the total fee and applies the average rate, 0.793 percent of receipts, to each signal.[17] Thus, the fees generated by each signal, as calculated by CDC, are larger than the signal's minimum value. While averaging occurs within the basic fee group, CDC takes the opposite approach when a system imports both basic and 3.75 signals.[18] In this case, CDC relies on the cable operator's designation of which station is nonpermitted under the old rules, although the designation may be arbitrary when nonpermitted is defined based on the number of distant stations rather than particular type of distant station.

As a practical matter, during 2000-03, only a very small amount of importation occurred above one DSE. The average subscriber in Form 3 systems with distant signals received 1.2 DSEs.[19] Due to the low average number of DSEs relative to the minimum requirement, as well as CDC's allocation methods, the fees generated do not reveal the minimum value for the vast majority of the DSEs.

Of course, the extra cost of carrying the signal would not reveal the marketplace value, only the minimum value. The conversion of TBS from a superstation to a cable network illustrates that cable operators valued it much more highly than the amount they paid under the compulsory license. One commenter cited by the Copyright Office stated, "carrying the same programming as it had as a distant signal, TBS was immediately able to obtain license fees that

---

[17] The average of 0.956 and 0.63 is 0.793.

[18] I understand that CDC's allocation of royalties is described in detail in the Direct Testimony of Jonda K. Martin, also submitted in this proceeding.

[19] CDC.

exceeded the entire 1998 royalty fund ($165 million for TBS vs. the $108 million for the royalty fund)."[20]

IV. Conclusion

In summary, the fees generated do not reflect relative marketplace value; rather, they reflect the compulsory license payment formula and CDC's allocations of fees paid to particular stations. As a result, changes in fees generated do not reflect changes in relative marketplace value.

[20] Library of Congress, Copyright Office, Satellite Home Viewer Extension and Reauthorization Act Section 109 Report: a Report of the Register of Copyrights, June 2008, p. 68, citing comments of Program Suppliers. The comparison cited does not give an exact measure of the extra amount cable operators were willing to pay, for example, the extra royalty amount paid for WTBS was less than the full royalty fund in 1998 and, on the other side, the operators' saving in common carrier costs is not considered; nevertheless, TBS's conversion did show that cable operators were willing to pay more for the channel than they did under the compulsory license.

APPENDIX A

NERA
Economic Consulting

National Economic Research Associates, Inc.
1166 Avenue of the Americas
New York, New York 10036
212 345-3000 Fax 212 345-4650

Direct dial 212 345-5340
linda.mclaughlin@nera.com

www.nera.com

LINDA McLAUGHLIN

SENIOR VICE PRESIDENT

Ms. McLaughlin specializes in antitrust and trade regulation. She has prepared studies of relevant product and geographic markets, market structure and performance, the impact of mergers and acquisitions, vertical and horizontal arrangements, and pricing and purchasing practices. These studies have focused on various consumer and producer industries, with particular emphasis on media and insurance.

Her work in the media and entertainment industries also includes: analyses of proposed US Federal Communications Commission rules concerning cable and broadcast television; pricing of music copyrights and retransmitted television stations rights; evaluation of motion picture talent contracts; the impact of a new magazine introduction; the reasonableness of cable, home satellite, and recorded music projections; and the value of cable systems, cable networks, and newspaper distributors.

In the area of insurance, she has also studied the effect of state rate regulation and deregulation of large commercial transactions, as well as the causes of the liability insurance crisis and its effect on reinsurers.

In addition, Ms. McLaughlin has performed studies of impact and damages in connection with antitrust, contract, trademark, and other litigation. The firms involved in these studies have included: manufacturers of consumer electronics products, fertilizers, windows, paint, and pharmaceutical products; distributors of chemicals, steel, beverages, and telecommunications services and equipment; tobacco growers; and satellite and internet service providers.

Education

University of Pennsylvania
M.A., Economics, 1970

Marquette University
B.S., *cum laude*, Mathematics, 1968

Professional Experience

NERA Economic Consulting

1974- Senior Vice President (since 2000)
Specialization: antitrust and trade regulation, intellectual property, economic damages.
Primary industries studied: media and entertainment, including broadcast, cable and satellite television, broadcast and satellite radio, motion pictures, recorded music, music publishing, advertising, newspapers, magazines and internet; and property-casualty and health insurance.
Other industries studies: telecommunications, photographic supplies, consumer electronics products, fertilizers, paint, windows, window coverings, pharmaceutical products, building products, hardware, chemicals, glass, steel, breakfast cereal, beverages, and tobacco.

Hofstra University

1970-1974 Instructor
Taught introductory economics, intermediate microeconomics, and the application of mathematics to economics.

Professional Activities

Member, American Economic Association and Committee on the Status of Women in the Economics Profession.

Testimony, Reports, and Publications

In the Matter of the Arbitration between BMI, Petitioner, and Williston Community Broadcasting, et al., Respondent (American Arbitration Association), a contract case. Affidavit, December 2008.

In the Matter of Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceedings before the Copyright Royalty Board, Docket No. 2006-3 CRB DPRA. Report, November 2006; deposition testimony, October 2007; hearing testimony, February 2008.

In the Matter of the Application of Clear Channel Adshel, Inc. For a Judgment Pursuant to Article 78 of the CPLR v. Franchise and Concession Review Committee of the City of New York, et al. (Sup. Court N.Y.S., New York County). Affidavit, July 2006.

Teleglobe Communications Corporation et al. v. BCE, Inc. et al. (D. Del.), a bankruptcy case. With William E. Taylor, Report, March 2006; rebuttal report, April 2006; deposition testimony, May 2006.

Clear Channel Investments, Inc., Claimant v. XM Satellite Radio Holdings, Inc., et al., Respondents (JAMS Arbitration), a breach of contract case. Report, September 2005; deposition testimony, September 2005.

Proposed Acquisition of United General Title Insurance Company by The First American Corporation (Arkansas Insurance Department). Report, February 2005.

Mitchell Camarda, et al. v. Snapple Distributors, Inc., et al. (S.D.N.Y.), an antitrust case. Report, August 2004; rebuttal report, January 2007; deposition testimony, February 2007; affidavit, March 2007.

Paul Zuccarini v. Ziff Davis Media Inc., et al. (Sup. Court N.Y.S., Nassau County), a breach of contract case. Report, May 2004; deposition testimony, July 2004.

In the Matter of the Merger of Pacific Northwest Title Insurance Company with and into The First American Corporation (Washington State Office of the Insurance Commissioner and Alaska Department of Insurance). Reports (both states), April 2004; hearing testimony (Washington), April 2004.

CSC Holdings, Inc., Claimant, and Yankees Entertainment and Sports Network, LLC, Respondent (American Arbitration Association), a contract case. Report, January 2004; deposition testimony, February 2004; hearing testimony, March 2004.

United Magazine Company, Inc., et al. v. Murdoch Magazines Distribution, Inc., et al. (S.D.N.Y.), an antitrust case. Report, December 2003.

D. Lamar DeLoach, et al. v. Philip Morris Companies, Inc., et al. (M.D.N.C.), an antitrust case. Report, October 2003; deposition testimony, October 2003.

Trowbridge, et al. v. Sony Music Entertainment, Inc., et al. (D. Me.), an antitrust case. Report, July 2003; supplemental report, October 2003; addendum, November 2003.

Original IFPC Shareholders, Inc. v. AT&T Wireless Services, Inc. et al. (Cir. Court of DuPage County, Ill.), a trade secret case. Report, March 2003; rebuttal report, May 2003; deposition testimony, June 2003.

"Recording Industry Revenues and Costs." Hearing testimony before the California Legislature, Joint Hearing of the Senate Committee on Judiciary and the Senate Select Committee on the Entertainment Industry on Record Label Accounting Practices, September 2002; report prepared for the Recording Industry Association of America, November 2002.

Twentieth Century Fox Film Corp. v. Marvel Enterprises, Inc., Tribune Entertainment Co., Fireworks Communications, Inc. and Fireworks Television (US) Inc. (S.D.N.Y.), a breach of contract, copyright and Lanham Act case. Report, August 2002; deposition testimony, September 2002.

In the Matter Between Paxson Communications Corp., Claimant, and National Broadcasting Co., Respondent (American Arbitration Association), an antitrust case. Report, March 2002; supplemental report, June 2002; hearing testimony, June 2002.

The Commission's Cable Horizontal and Vertical Ownership Limits and Attribution Rules, FCC MM Docket No. 92-264. With Paul L. Joskow, Report, January 2002.

We Media Inc. v. Cablevision Systems Corp. et al. (S.D.N.Y.), a Lanham Act case. Report, December 2001; deposition testimony, February 2002.

U.S. v. BMI, In the Matter of the Application of Hicks Broadcasting of Indiana, et al., Applicants, for the Determination of Reasonable License Fees (S.D.N.Y.). Report, November 2001; rebuttal report, January 2002; deposition testimony, March 2002.

Atlantic Embroidery, Inc. v. Vanguard Industries, Inc. (E.D. Va.), an antitrust case. Report, August 2001.

Determination of Rates and Terms for Digital Performances of Sound Recordings, Docket No. 2000-9 CARP DTRA 1&2. Report, April 2001; hearing testimony, July-August 2001.

BPW Rhythmic Records L.L.C. v. CDNow, Inc. and N2K Inc. (S.D.N.Y.), a breach of contract case. Report, August 2000; deposition testimony, August 2000.

Rajendra Patel v. Hughes Electronics Corporation et al. (S.D. Md.), a breach of contract case. Report, July 2000.

Distribution of Satellite Royalty Funds, Docket No. 97-1 CARP SD 92-95. Report, January 1999.

Arthur Sarkissian v. The Walt Disney Company, et al. (Sup. Court, Los Angeles, Cal.), a contract case. Deposition testimony, October 1998.

Hometron USA, Inc., v. Bell Atlantic Corporation et al. (Cir. Court of Baltimore City, Md.), a fraud case. Report, February 1998; deposition testimony, February 1998.

Time Inc. v. Petersen Publishing Co., L.L.C. (S.D.N.Y.), a Lanham Act case. With Philip A. Beutel, Report, January 1998.

Integrated Consulting Services, Inc. v. LDDS Communications, Inc. (S.D. Md.), a breach of contract case. Report, July 1997.

"Background Analysis for New York State Insurance Enterprise Zone." Report prepared for The Insurance Brokers' Association of the State of New York, April 1997.

Satellite Carrier Royalty Rate Adjustment Proceeding, Docket No. 96-3 CARP SRA. Report, November 1996; hearing testimony, March 1997.

Frebon International Corporation v. Bell Atlantic Corporation, et al. (D.D.C.), a breach of contract case. Report, February 1996; deposition testimony, March 1996.

Review of the Commission's Regulations Governing Programming Practices of Broadcast Television Networks and Affiliates, FCC MM Docket No. 95-92. With Philip A. Beutel and Howard P. Kitt, Report, October 1995, Supplemental Report, January 1996.

Turner Broadcasting System, Inc., et al., v. Federal Communications Commission, et al. (D.D.C.), a First Amendment case. Deposition testimony, May 1995; affidavits, May and June 1995.

"Competitive Effect of Elimination of Small Overbuilds Between Time Warner and Cablevision Industries." With Paul Joskow, Report prepared for submission to the Federal Trade Commission, April 1995.

Thompson Everett, Inc. v. National Cable Advertising, Inc., et al. (E.D. Va.), an antitrust case. With Richard Schmalensee, report, March 1994; deposition testimony, April 1994.

Selcke v. Touche Ross & Co., et al. (Cir. Court of Cook County, Ill.), a breach of contract case. Deposition testimony, March 1994 and May 1995.

Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, FCC MM Docket No. 92-266. With Lewis J. Perl and Jonathan Falk, reports on econometric issues, June and July 1993.

Hachette Distribution, Inc. et al. v. Hudson County News Company, Inc. et al. (E.D.N.Y), an antitrust case. Deposition testimony, March 1993.

Abbott Laboratories v. Mead Johnson & Company (S.D. Ind.), a Lanham Act case. Report, January 1993.

"Federal Charter Plan Background Analysis." Report prepared for the Insurance Solvency Coalition, December 1991.

"McCarran-Ferguson Act Reform: More Competition or More Regulation?" With Paul Joskow, *Journal of Risk and Uncertainty*, December 1991.

Personal Preference Video, Inc. et al. v. Home Box Office, Inc. (N.D. Tex.), a breach of contract case. Trial testimony, October 1991.

Cable Television Franchise Renewal Proposals of Manhattan Cable TV and Paragon Cable Manhattan. Opinions on the reasonableness of certain assumptions, January 1990.

Associated Imports, Inc. v. International Longshoremen's Association et al. (S.D.N.Y.), a breach of contract case. Deposition testimony, October 1988, September 1990; trial testimony, October 1990.

James M. King and Associates, Inc. v. G. D. Van Wagenen Co., et al. (D. Minn.), an antitrust case. Affidavit, January 1988; deposition testimony, February 1988.

Apache Corp. v. McKeen et al. (E.D.N.Y.), a RICO case. Deposition testimony, April 1987.

James F. Chumbley, et al. v. Rockland Industries, Inc. (D. Md.), a breach of contract case. Deposition testimony, December 1985; trial testimony, January-February 1986.

Acorn Building Components, Inc. v. Norton Co.; Jeld-Wen, Inc. v. Norton Co.; and Weather Shield Mfg, Inc. v. Norton Co. (E.D. Mich., Southern Div.), product liability cases. Deposition testimony, October 1985.

Action Publications v. Panax Corp. et al. (W.D. Mich.), an antitrust case. Deposition testimony, June 1984; trial testimony, December 1984.

East Coast Chemicals v. Exxon (Sup. Court, N.J.), a product liability case. Report, June 1983; deposition testimony, June 1983.

Mississippi Chemical Corp. v. Chemical Construction Corp. et al. (S.D. Miss.), a breach of *contract* case. Deposition testimony, June 1982.

Comet Industries, Inc. v. ESB Inc., et al. (W.D. Mo.), a breach of contract case. Deposition testimony, September 1981.

Paschall and Intervenors v. The Kansas City Star Co. (W.D. Mo.), an antitrust case. Deposition testimony, November 1980.

December 2008

Before the
COPYRIGHT ROYALTY JUDGES
Library of Congress
Washington, D.C.

In the Matter of Distribution of 2000, 2001, 2002 and 2003 Cable Royalty Funds	)	Docket No. 2008-2 CRB CD 2000-03

DECLARATION

I, Linda McLaughlin, declare under penalty of perjury that the Testimony of Linda McLaughlin presented in the 2000-2003 Cable Copyright Royalty Distribution Proceeding is true and correct to the best of my knowledge, information and belief.

Linda McLaughlin

Executed on: 1/30/2009

Certificate of Service

I hereby certify that on Monday, February 12, 2018 I provided a true and correct copy of the Written Testimony of Linda McLaughlin, 2000-2003 Cable Distribution Proceeding, Jan. 30, 2009 to the following:

National Public Radio, Inc. (NPR), represented by Gregory A Lewis served via Electronic Service at glewis@npr.org

Devotional Claimants, represented by Benjamin S Sternberg served via Electronic Service at ben@lutzker.com

Multigroup Claimants, represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Canadian Claimants Group, represented by Lawrence K Satterfield served via Electronic Service at lksatterfield@satterfield-pllc.com

Spanish Language Producers, represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

American Society of Composers, Authors and Publishers (ASCAP), represented by Sam Mosenkis served via Electronic Service at smosenkis@ascap.com

MPAA-represented Program Suppliers, represented by Gregory O Olaniran served via Electronic Service at goo@msk.com

SESAC, Inc., represented by Christos P Badavas served via Electronic Service at cbadavas@sesac.com

National Association of Broadcasters (NAB), represented by David J Ervin served via Electronic Service at dervin@crowell.com

Joint Sports Claimants, represented by Iain McPhie served via Electronic Service at iain.mcphie@squirepb.com

Broadcast Music, Inc. (BMI), represented by Brian A Coleman served via Electronic Service at Brian.Coleman@dbr.com

Signed: /s/ Dustin Cho